

**PLANNING DEPARTMENT
PUBLIC HEARING DECISION MINUTES
NOVEMBER 13, 2019**

CALL TO ORDER: Chair Connolly called the Bonner County Commissioners' hearing to order at 1:30 p.m. in the 3rd floor meeting room, Suite 338 of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho.

PRESENT: Commissioners Chair Jeff Connolly; Vice Chair Dan McDonald; and Steve Bradshaw

ABSENT: None

ALSO PRESENT: Planning Director Milton Ollerton; Planner I Halee Sabourin; Administrative Manager Jeannie Welter; and Administrative Assistant II Emily Aerni

PUBLIC HEARINGS:

VACATIONS

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File VS0002-19 – Vacation of North Thama Road – Right-of-Way – J. D. Lumber, Inc. is petitioning to vacate a portion of North Thama Road right-of-way. The project is located off North Thama Road in Section 4, Township 55N North, Range 04W West, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

STAFF PRESENTATION: Planning Director Milton Ollerton presented a map of the project and concluded this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Jeff Weimer submitted a map (exhibit A) which he described to the Board.

PUBLIC/AGENCY TESTIMONY: Jeff Needs Jr., Steve Klatt, and Toby McLaughlin all spoke on the record in favor of this petition.

APPLICANT REBUTTAL: Mr. Weimer responded to comments made by the public.

BOARD DELIBERATION: The Chair closed the hearing to public testimony. The Board discussed Findings and Conclusions.

MOTION: Commissioner McDonald moved to approve this petition, FILE VS0002-19, a petition to vacate a portion of the North Thama Road public easement, finding that it is in accord with Idaho Code enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner McDonald further moved to adopt the following findings of fact, conclusions of law and conditions of approval as written. The action that could be taken to obtain the validation is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Bradshaw seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously.

Overview:

A. Site data:

- Parcel acreage: 1.12 (assessed)
- Structures: vacant
- Hydrologic Features: None
- Flood Hazard Zone: X/AE
- Wetlands: Portions of the area feature "Freshwater Emergent Wetland"
- Slope: <15% per USGS
- Soils:
 - Selle Fine Sandy Loam, 0 To 8 Percent Slopes
 - Mission Silt Loam, 0 To 2 Percent Slopes

B. Access:

- Access to the easement is provided by North Thama Road a local access road.

C. Standards review:

- Required:
 - Compliance with:
 - §40-203, Abandonment and Vacation of County and Highway District System Highways or Public Rights-Of-Way
 - The commissioners may by resolution declare their intention to abandon and vacate any highway or public right-of-way, or to reclassify a public highway as a public right-of-way, where doing so is in the public interest.
- Provided:
 - Petitioner's reason for the request:
 - "Burlington Northern Railroad (BNSF) sold the property in question to JD Lumber. BN presumed they gave an easement to [Bonner County] for the road and only the road. They actually gave the county an easement for the road and south of the road and south of the road to the Southern BNSF property line. Then JD Lumber bought the property south of the county road to the Southern BNSF property line, and no one realize that area of property was encumbered by the easement given to the county."

D. Agency Review

The petition was routed to the following agencies on July 19, 2019.

Panhandle Health District Bonner County Road Dept. West Pend Oreille Fire District Avista Utility Company Northern Lights INC.	Bonner County Schools – Transportation BNSF Railway Frontier Communications Idaho Transpiration Dept. Dept. of Env. Quality
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Agency Review Ended on August 7, 2019.

- o No agency comments were submitted.

E. Public Notice & Comments

- There have been no public comments at the time this staff report was produced.

Conclusions of Law:

The Background section of the staff report above is the basis for all of the following findings of fact and conclusions of law. Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

This proposal is compliant with the vacation criteria and standards set forth at Idaho Code §40-203.

Finding

The procedures set forth in section 40-203, Idaho Code, have been followed.

No public agency has objected to the proposed petition to vacate.

Local utility providers were routed as part of agency review, and none opposed the validation.

Conclusion 2

That portion of the North Thama Road Public Easement is hereby vacated and declared abandoned.

Finding

The petitioner demonstrated adequate evidence that the vacation of the subject easement would not be in conflict with public interest.

Finding

The petitioner provided adequate evidence that the vacation of the subject easement would not result in any real property, adjoining said easement, without access to an established highway or public right-of-way

Conditions of approval:

1. The vacation of the above-described platted area shall be effective upon the recording of a resolution by the Bonner County Commissioners granting the vacation.
2. The costs for legal advertisements and recording fees shall be borne by the petitioner and shall be paid prior to the recording of this vacation.
3. The petitioner shall allow for continued use of existing sewer, gas, water, or similar pipelines and appurtenances, or other underground facilities as defined in section 55-2202, Idaho Code, for ditches or canals and appurtenances, and for electric, telephone and similar lines and appurtenances – pursuant to Idaho Code §40-203(3).

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

File VS0003-19 – Vacation of a Portion of Eagle View Lane, a Platted Private Right-of-Way – Chad & Alison Schobert are petitioning to vacate a portion of Eagle View Lane, a platted, private right-of-way. The property is zoned Rural 10. The property is located off Eagle View Lane in Section 27, Township 57N North, Range 3 West, Boise-Meridian.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

STAFF PRESENTATION: Planning Director Milton Ollerton presented a summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Project representative Dan Larson, 7B Engineering, stated it is a simple request. He stated a 30 feet utility easement would be maintained.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

BOARD DELIBERATION: The Chair closed the hearing to public testimony. The Board discussed Findings and Conclusions.

MOTION: Commissioner Bradshaw moved to approve this petition, FILE VS0003-19, finding that it is in accord with Idaho Code enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Bradshaw further moved to adopt the following findings of fact, conclusions of law

and conditions of approval as written. The action that could be taken to obtain the vacation is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner McDonald seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously.

Overview:

A. Site data:

Lot acreage: 5.05 acres (platted)
Hydrologic Features: There is an intermittent stream along the eastern side of the lot.
Flood Hazard Zone: No Floodplain per FIRM Panel 16017C0695E
Wetlands: Riverine
Slope: 15%-29% and 30%+ per USGS
Soils: Treble-Rock Outcrop Association, 20 To 65 Percent Slopes; Pend Oreille Silt Loam, 5 To 45 Percent Slopes.

Area to be vacated: ±0.1-acres

B. Access: Access to the property is provided Eagle View Lane, a privately maintained easement through the View at Eagleridge.

C. Standards review:

The project has been reviewed for conformance with Idaho Code §50-1306A, Vacation of Plats - Procedure, and Idaho Code §50-1317. The following facts relate to the standards of review:

- The petition to vacate a platted area complies with all State procedures set forth in IC §50-1306A and IC §50-1317.
- In the case of easements granted for gas, sewer, water, telephone, cable television, power, drainage, and existing travelway - these easements are to be left intact and are not vacated through the provisions of this petition.
- The portion of platted area to be vacated will result in the edge of the easement moving closer to the existing travelway and property line creating the opportunity for increased setbacks for a residential structure.
- Abandonment would not impede or deprive any property of legal access.

D. Agency Review

The petition was routed to the following agencies on August 23, 2018.

Panhandle Health District	Dept. of Fish and Game
Dept. of Water Resources	Dept. of Env. Quality
Bonner County Road Dept.	Dept. of Lands (Sandpoint)
Army Corps (Coeur d'Alene)	Northern Lights INC.
Northside Fire District	Bonner School District - transportation

Agency Review Ended on November 6, 2019.

- No agencies responded in opposition.

E. Public Notice & Comments

There have been no public comments at the time this staff report was produced.

Conclusions of Law:

The Overview section of the staff report above is the basis for all of the following findings of fact and conclusions of law. Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

This proposal is compliant with the vacation criteria and standards set forth at Idaho Code §50-1306A and §50-1317.

Finding

No public agency has objected to the proposed easement vacation. There are no utilities easements located within the areas that are proposed to be vacated, according to the petition. Local utility providers were routed as part of agency review, and none responded.

Conclusion 2

By granting this petition for vacation, the easement will be vacated according to the included survey and legal description.

Finding

The 30-foot portion of the easement to be vacated does not include utility easements and moves the easement to the edge of the existing travelway.

Conditions of approval:

1. The vacation of the above-described platted area shall be effective upon the recording of a resolution by the Bonner County Commissioners granting the vacation.
2. The costs for legal advertisements and recording fees shall be borne by the petitioner and shall be paid prior to the recording of this vacation.

AMENDMENT & ZONE CHANGE

CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE: The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings. Hearing no response, the Chair continued with the public hearing.

Files AM0005-19 & ZC0003-19 – Comprehensive Plan Map Amendment & Zone Change - William & Paula Starr are requesting a Comprehensive Plan Map Amendment from Agriculture/Forest to Rural Residential and a Zone Change from Agriculture Forestry 10/20 to Rural-5. The project involves a ±22.24 acre parcel of land that is accessed via Elk Meadows in Section 1, Township 54 North, Range 6 West, Boise-Meridian. The Planning & Zoning Commission at the public hearing on October 17, 2019 recommended approval of this project to the Board of County Commissioners.

CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS: The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

STAFF PRESENTATION: Planning Director Milton Ollerton presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

APPLICANT PRESENTATION: Applicant William Starr stated they created a nice easement road with a big turnaround at the end for fire trucks or whatever.

PUBLIC/AGENCY TESTIMONY: None.

APPLICANT REBUTTAL: None.

BOARD DELIBERATION: The Chair closed the hearing to public testimony. The Board discussed Findings and Conclusions.

Comprehensive Plan Amendment Motion by the governing body:

MOTION: Commissioner McDonald moved to APPROVE this project, FILE AM0005-19, requesting a comprehensive plan amendment for the subject property from Ag/Forest Land to Rural Residential, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner McDonald further moved to adopt the following findings of fact and conclusions of law as written. This action does not result in a taking of private property. Commissioner Bradshaw seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously.

Comprehensive Plan Map Resolution Adoption:

Commissioner McDonald moved to approve resolution #19-109 amending the Bonner County Projected Land Use Map. Commissioner Bradshaw seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously.

Zone Change Motion by the Governing Body:

MOTION: Commissioner Bradshaw moved to APPROVE this project, FILE ZC0003-19, requesting a zone change from Ag/Forest-10/20 to Rural-5, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Bradshaw further moved to adopt the following findings of fact and conclusions of law as written. This action does not result in a taking of private property. Commissioner McDonald seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously.

Zone Change Ordinance Motion:

Commissioner Bradshaw moved to approve an Ordinance of Bonner County, Idaho, the number to be assigned, citing its authority, and providing for the amendment of the Official Zoning Map of Bonner County by the reclassification of lands located in Section 1, Township 54 North, Range 6 West, Boise Meridian, Bonner County, Idaho from A/F-20 and A/F-10 to R-5, and providing for an effective date. Commissioner Bradshaw further moved to authorize the Chair to sign the official supplementary zoning map upon publication of the ordinance. Commissioner McDonald seconded the motion.

VOTED upon and the Chair declared the motion carried, unanimously.

ROLL CALL VOTE

Commissioner McDonald	AYE
Commissioner Connolly	AYE
Commissioner Bradshaw	AYE

Background:

A. Site data:

- Acreage: 23.59 acres (approximately)
- Zoning: Ag/Forest-10/20 (split zoned)
- Structures: (1) single family dwelling w/ attached garage (BLP2018-0422)
- Access:
 - Elk Meadows
 - Private easement
 - Local Access

- Gravel
- Environmental:
 - Flood hazard area:
 - X – 0.2% Annual Chance Flood Hazard
 - Wetlands: N/A
 - Hydrography: N/A
 - Slope: <15%
 - Soil: Stapalloop-Kaniksu, Dry Complex, 8 To 25 Percent Slopes
- Services:
 - Water:
 - Individual well
 - Sewage:
 - Individual septic
 - Fire:
 - Spirit Lake Fire
 - School:
 - Bonner School #83

B. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land (10-20 acres)	A/F-10/20	Residential, (1) SFD
North	Ag/Forest Land (10-20 acres)	A/F-10	Residential, 5 acre lots
East	Ag/Forest Land (10-20 acres)	A/F-10	Vacant Timber
South	Ag/Forest Land (10-20 acres)	A/F-20	Vacant Timber
West	State of Washington	n/a	Residential Ag/Timber

C. Standards review: Bonner County Revised Code

- **12-215:** Applications for Zone Changes and Comprehensive Plan Map Amendments, Contents
 - The application was considered complete and routed to agencies accordingly.
- **12-216:** Evaluation of Amendment Proposals
 - Staff and the governing bodies shall review the particular facts and circumstances of each proposal submitted and shall determine whether there is adequate evidence that the proposal is in accordance with the general and specific objectives of the comprehensive plan. (Ord. 501, 11-18-2008)
- **Comprehensive Plan Map Amendment:**
 - Ag/Forest Land: The Ag/Forest Land designation recognizes areas where steeper slopes prevail (30% Land Use Component Bonner County Comprehensive Plan CHAPTER 6-4 or greater) and

transportation is provided by private roads or U.S. Forest Service or state roads. Urban services are not available and residential development challenges are present due to slope, poor soil conditions, hazard areas and lack of police or fire services.

- Staff: The subject parcel does not feature steeper slopes (USGS <15%). Access is provided by Elk Meadows, a low volume, private road, and the parcel is afforded fire protection via Spirit Lake Fire.
- Rural Residential: The Rural Residential area provides for residential development in areas where urban services are not available and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses and residential development are permitted.
 - Staff: The subject parcel does not feature steeper slopes (USGS <15%). Access is provided by Elk Meadows, a low volume, private road, and the parcel is afforded fire protection via Spirit Lake Fire. Surrounding properties feature agricultural and residential uses. Parcels lying to the North are 5 acres in size and are developed with residences. The land use matrix in the Land Use component of the Bonner County Comprehensive Plan indicates that access should meet IFC standard.
- Conclusion: Existing densities, environmental features, and services indicate that the subject property conforms to the Rural Residential Designation. Access should be addressed to ensure IFC standard conformance.

• **Zone Change:**

- Rural District: The rural district is established to allow low density residential uses that are compatible with rural pursuits. The purpose can be accomplished by:
 - Limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and sites and can be adequately supported by rural service levels.
 - Allowing small scale farming and forestry activities, and tourism and recreation uses that can be supported by rural service levels and are compatible with rural character.
 - Encouraging conservation development configurations that create permanent open space or farming areas, protect sensitive environmental features, reduce infrastructure costs and/or enhance recreational opportunities.
 - Use of this zone is appropriate in areas designated by the comprehensive plan as follows:
 - R-10 in areas designated as rural residential in the comprehensive plan that meet one or more of the following criteria:

- Characterized by slopes steeper than thirty percent (30%).
- Located within critical wildlife habitat as identified by federal, state or local agencies.
- Contain prime agricultural soils.
- Served by a network of public and/or private roadways that generally do not meet applicable roadway standards set forth in title 2 (public roads) of this code or appendix A (private roads) of this title or are absent.
- Within the floodway.
- Contain limited access to public services.
- R-5 in areas designated rural residential in the comprehensive plan that are already developed at or near the one dwelling unit per five (5) acre density and/or do not meet the criteria for R-10 above. (Ord. 501, 11-18-2008)

- Staff: The subject parcel does not feature slopes in excess of 15% (USGS). NRCS indicates that the farmland of statewide importance. Access is provided by Elk Meadows, a private easement. The parcel does not feature any special flood hazard areas or floodway. The parcel has access to public services such as Spirit Lake Fire.

D. Stormwater plan: A stormwater management plan was not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in the creation of additional impervious surface, as defined.

E. Agency Review: The application was routed to agencies for comment on September 17, 2019.

Panhandle Health District Department Spirit Lake Fire Bonner School District #83 U.S. Army Corps U.S. Forest Service U.S Fish & Wildlife Services Pend Oreille Public Utility District	Bonner County Road & Bridges Avista Utilities Idaho Dept. of Fish & Game Idaho Dept. of Environmental Quality Idaho Dept. of Water Resources Idaho Dept. of Lands (Sandpoint)
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- The following agencies responded:
 - Panhandle Health District - "No Comment" 9/18/2019
 - Idaho Dept. of Lands - "The Idaho Dept. of Lands has no comment on this application" - Tom Fleer, 9/19/2019
 - Idaho Dept. of Lands - "No comment from Idaho Department of Lands on this application, it is outside of our jurisdiction for Navigable Waters and is not surrounded by any state owned land. Any logging activities would need to follow the Idaho Forest Practices Act." - Mike Ahmer, 9/18/2019

All comments from agencies are due by October 9, 2019. Any agency comment received after the production of this report is to be referenced during the public hearing.

F. Public Notice & Comments: As of 10/25/2019, there have been no public comments received.

Findings of Fact

- Adjacent properties are approximately 5 acres in size and are used similarly.
- The parcel features individual utilities and is afforded fire protection.
- The parcel is accessed by Elk Meadows, a private easement.
- The parcel does not feature steep slopes or special flood hazard areas.
- The Planning and Zoning Commission held a public hearing on October 17, 2019 and recommended approval.

Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

The proposal **is** in accord with the following elements of the Bonner County Comprehensive Plan:

Property Rights Transportation Economic Development Hazardous Areas Recreation	Population Community Design Land Use Public Services Special Areas or Sites	School Facilities Implementation Natural Resources Transportation Housing
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Conclusion 2

This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and **is** found to be in compliance.

Conclusion 3

The proposal **is** in accord with the Rural Residential Land Use Designation.

Zone Change Findings of Fact

- Adjacent properties are approximately 5 acres in size and are used similarly.
- The parcel features individual utilities and is afforded fire protection.
- The parcel is accessed by Elk Meadows, a private easement.
- The parcel does not feature steep slopes or special flood hazard areas.

Zone Change Conclusions of Law:

Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

The proposal **is** in accord with the following elements of the Bonner County Comprehensive Plan:

Property Rights	Population	School Facilities
Transportation	Community Design	Implementation
Economic Development	Land Use	Natural Resources
Hazardous Areas	Public Services	Transportation
Recreation	Special Areas or Sites	Housing

Conclusion 2

This proposal was reviewed for compliance with Title 12, Bonner County Revised Code, and **was** found to be in compliance.

Conclusion 3

The proposal **is** in accord with the purpose of the Rural-5 zoning district, provided at Chapter 3, Title 12, Bonner County Revised Code.

The Chair declared the hearing adjourned at 2:01 p.m.

Respectfully submitted, this 26st day of November 2019,



Milton Ollerton, Planning Director